

JAN 20 2006

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FAX FILED TO THE COMMISSIONER OF PATENTS AT (571)-273-8300 ON THE DATE INDICATED BELOW.

BY: 

DATE: 1/20/06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of Christopher I. Halliday	: Group Art Unit: 2155
Appln. No.:	09/922,487	: Examiner: Bates, Kevin T.
Filed:	August 3, 2001	: :
For:	Method and Apparatus for Selecting Satellite Audio Radio Channels	: :

DECLARATION UNDER 37 C.F.R. § 1.131

I, Christopher I. Halliday, declare as follows:

1. I am the sole named inventor of claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76 in the above-referenced U.S. Patent Application (09/922,487).
2. According to the Examiner, the reference of Rindsburg et al. (U.S. Patent No. 6,553,077) discloses receiving on a mobile receiver a plurality of stations each station comprising a digitally encoded stream containing designations representative of a work of authorship over a satellite audio radio network.
3. The Office Action dated November 8, 2005, states on pages 2 through 7 that Rindsburg et al. therefore anticipate claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76 of the above-referenced patent application, under 35 U.S.C. § 102(e).

4. During the development of the claimed invention, I drafted and filed on September 18, 2000, a provisional application, Serial No. 60/233,266, to which the present application claims priority. Over the course of the following months, I drafted and filed the present non-provisional application. To the extent the Examiner believes that the rejection is not overcome by the provisional application filing date, I offer the following:

5. I hereby declare that I conceived of the invention claimed in claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76 before the critical date of July 31, 2001, and with appropriate diligence constructively reduced the invention to practice on August 3, 2001. Moreover, I completed a draft version of the non-provisional application before July 31, 2001. The draft included all of the substantive disclosure of the currently pending application filed with the United States Patent and Trademark Office on August 3, 2001.

6. I also declare that before July 31, 2001, drafts of the application were provided to at least one other person for review and comment and that these drafts included all of the substantive disclosure of the instant application and supported currently pending claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76.

7. Supporting evidence is in the form of an Affidavit by Brian J. Gibbons (Exhibit A), which indicates that I provided to him drafts of the application, and that these drafts were in his possession on and before July 27, 2001. The Affiant also indicates that a draft was reviewed by him on and before July 27, 2001, through August 3, 2001. The Affiant also indicates that this draft which was in his possession on and before July 27, 2001, through August 3, 2001, included all of the substantive disclosure of the instant application and supported currently pending claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76.

8. I further declare that on and before July 27, 2001, through August 3, 2001, Brian J. Gibbons and I held discussions concerning the drafts of the application, and in view of those discussions I continued to edit drafts on and before July 27, 2001, through August 3, 2001.

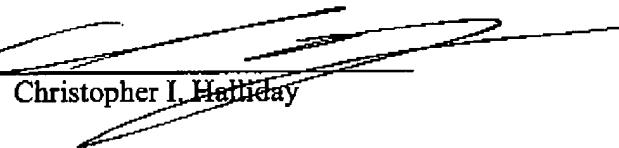
9. Accordingly, the totality of the evidence is sufficient in character and weight to prove that the subject matter of pending claims 41-43, 47-48, 50-52, 58, 60-64 and 74-76 was conceived prior to the earliest priority date of July 31, 2001 of the Rindsburg et al. patent, U.S. Patent No. 6,553,077, and that the claimed invention was diligently reduced to practice in the United States on August 3, 2001.

10. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Respectfully submitted,

Date: 1-17-06

By:



Christopher I. Halliday